

**BEFORE THE
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, D.C.**

In the Matter of

**Proposed Policy Clarification for
the Registration of Aircraft to U.S.
Trustees in Situations Involving
Non-U.S. Citizen Trustors and
Beneficiaries**

Docket No. FAA–2012–0658

COMMENTS OF AIRLINES FOR AMERICA

Airlines for America (A4A), on behalf of its members, appreciates the opportunity to provide comments to the Federal Aviation Administration's (FAA or Agency) proposed policy clarification published in the Federal Register on February 9, 2012 regarding registration of aircraft in the U.S when financed using non-citizen trusts (NCT) as permitted by FAA regulations.¹ A4A members and their affiliates transport over ninety percent of all U.S. passenger and cargo traffic. In addition, several A4A members finance aircraft using NCTs and would be affected by the proposed policy clarification. Consequently, A4A members have a strong interest in this proceeding.

Although A4A endorses the Aviation Working Group comments submitted on May 23, 2012 and August 17, 2012, we submit these comments to highlight certain issues of unique concern to U.S. certificated air carriers.² Our primary interest is for the FAA to first use normal channels of communication with U.S. certificated air carriers to obtain desired information regarding the operations of leased aircraft, including those financed using NCTs. Only if the lessee U.S. certificated air carrier/operator is unable to provide information the FAA requests, should the FAA contact the Owner Trustee. In the case of a U.S. certificated air carrier, whether the equitable owner (trustor) of the aircraft is a citizen or non-citizen is of no consequence because the FAA already has well-established means of communication to retrieve information on leased aircraft. The FAA, through the FAA Certificate Management Office and the FAA Region office supervising the air carrier (through the principal maintenance inspector and principal operating inspector), has ready and easy access to such information. The reason this is important is that measures such as those proposed could be perceived as exposing the Owner Trustee to potential liability and unnecessarily create serious concerns that adversely affect the certificated air carrier. Accordingly, the Non-Citizen Trust Proposed Policy Clarification (NCT PPC) and Trust Agreement (TA) should clarify that the FAA will first contact the U.S. certificated air carrier lessee through the usual channels when seeking any information on an aircraft financed through a NCT.

In practice, the FAA communicates with U.S. certificated air carriers on a regular and usual basis as described above. It is important to incorporate this communication practice into the NCT PPC and TA because not doing so will result in an unnecessary perception that greater duties and liabilities fall on Owner Trustees when using a NCT. Several major U.S. certificated air carriers rely on NCT's and the consequence of perceived additional duties and liabilities may result in banks like Wells Fargo Bank

¹ 77 Fed. Reg. 6694.

² "U.S. certificated air carrier" in these comments refers only to air carriers operating under 14 CFR part 121.

Northwest and Wilmington Trust Company refusing to undertake the responsibilities of Owner Trustee, reducing the pool of financing options for U.S. carriers. In addition, Owner Trustee's may require a clause in a NCT lease that air carrier/operators exposure is increased by indemnifying the Owner Trustee for its liability, including potential FAA civil penalties, for which the airline lessee will likely be uninsured. Finally, air carriers will face unnecessary increased costs in the form of Trustee's fees and costs, including expenses of counsel likely to be employed to protect the Owner Trustee.

None of the three draft NCT PPC and TA consequences listed above are necessary or likely to occur if the FAA clarifies in any final policy clarification and TA that FAA will rely on existing communication methods to obtain information from U.S. certificated air carriers on NCT leased aircraft. This clarification will provide Owner Trustees comfort that FAA will obtain any data it seeks directly from such air carriers and therefore eliminate the threat of reduced NCT lease options.

Thank you for considering our comments.

Sincerely,

A handwritten signature in dark ink, appearing to read "Doug Mullen", with a stylized, cursive script.

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